



LEGISLATIVE UPDATE

May 29, 2015

This week's big news came on Tuesday when the Senate Appropriations Committee released a [schedule](#) for the budget process that slates Tuesday, June 30, as its target date to have the state's budget passed by both chambers and sent to the Governor. This is music to the ears of many legislative staffers and Jones Street junkies with hopes of a real Fourth of July holiday; however, this may not be a feasible timeline as there will likely be many differences between House and Senate budget priorities.

While details of the Senate's proposed education budget will become clearer over the next two weeks, it appears that the Senate [spending target](#) for public schools is about \$168 million less than the House's proposed [spending plan](#). To accurately compare the Senate Appropriations Committee spending target with the House budget, the salaries and benefits monies must be subtracted from the House budget because the Senate Education Appropriations Committee is not permitted to take up salary-related budget items; those items are the purview of the full Senate Appropriations Chairs. For detailed budget analysis, including salary schedule and benefits information, please visit DPI's Financial and Business Services Division under "What's New:" <http://www.ncpublicschools.org/fbs/>.

Other Education News:

The United States Court of Appeals for the Fourth Circuit ruled that the district court erred in granting the defendants' motion to dismiss a case challenging the Wake County School Board redistricting. The plaintiffs who challenged the plan under the 14th Amendment may now continue to the next phase of the case on the merits. This ruling does not decide whether these parents and citizens will be successful in their challenge of the redistricting plan, it merely remands the case back to the lower court for further proceedings. In 2013, the General Assembly passed a plan that redrew the Wake County School Board districts. This plan has been criticized as an effort to weaken the voting rights of urban voters and minorities, which prompted the legal challenge in August of 2013.

Relevant Bills on the Floor This Week:

[HB 113](#) Protect Our Students Act

On Wednesday, the House concurred with Senate changes to HB 113 and passed the bill for the final time. It will now go to the Governor's desk. The bill would increase the criminal penalty from a Class A1 misdemeanor to a Class I felony for engaging in a sex act or indecent liberties with a student if the defendant is school personnel (other than a teacher, school administrator, student teacher, school safety officer, or coach) and is less than four years older than a student. This would apply to all schools in North Carolina – traditional public, charter, non-public, and regional schools. There are, of course, other existing criminal charges that apply to those who engage in illegal sex acts with students. This bill would also establish a procedure for colleges, community colleges, and universities to obtain a list of students and employees of their respective institution who are registered sex offenders. The bill now goes to the Governor's desk for review.

[HB 274](#) Retirement Technical Corrects Act of 2015

On Thursday, the Senate unanimously passed HB 274 with no changes made to the bill in Senate committees or on the floor. The House previously passed the bill on March 31. It will now go to the Governor's desk. The bill makes technical changes to some of the statutes governing the Teachers and State Employees Retirement System (TSERS), the Local Governmental Employees Retirement System (LGERS), the Disability Income Plan (DIP), Qualified Excess Benefit Arrangement (QEBA) plans, and funds received by the Escheat Fund and benefit plans administered by the State Treasurer.

HB 274 also amends G.S. 135-4(g) to clarify that creditable service in TSERS applies to returning state employees who served in the uniformed services and were "not dishonorably discharged." Current law requires a returning employee to be "honorably discharged" for the service to count toward creditable service in the state retirement system. It also specifies that the employer must remit to TSERS employer and employee contributions for the full period of that member's uniformed service upon the employee's return to work.

Notably, with regard to state retirement law, the House budget proposal includes the provisions of [HB 56](#) (Section 30.25 of [HB 97](#)) that would allow rehired retirees to maintain their State Health Plan coverage even if they are working on a nonpermanent, full-time basis, under certain conditions. In education, the classic example is a rehired retiree who substitute teaches on a long-term, full-time basis. Section 30.25 of the House budget plan will be one to watch as the Senate works on its budget proposal.

[HB 495](#) OSHR Modernization/Technical Changes

On Wednesday, the Senate Committee on Pensions, Retirement, and Aging amended and approved HB 495. It was placed on the Senate calendar for Thursday but was withdrawn and placed on the calendar for Wednesday, June 3. The bill would make various changes to the state's personnel statutes formerly known as the "State Personnel Act," now codified as the "NC Human Resources Act" (NCHRA), as follows:

1. Changes the definition of a "career State employee" to one who:
 - a. Is in a "permanent position with a permanent appointment," and
 - b. Has been continuously employed by the state or local entity in a position subject to NCHRA for the immediate 12 preceding months (current law requires the 24 preceding months).
2. Deletes a provision preventing G.S.126-4(10) from being "construed to authorize the establishment of an incentive pay program."
3. Amends G.S. 126-6.2(a) to require annually, rather than quarterly (current law), that each state agency report to Office of State Human Resources (OSHR) on various administrative, management, legal, and financial functions.
4. Amends G.S. 126-7.1(c) to require the State Human Resources Commission (SHRC) to adopt rules and policies governing priority and salary rights of state employees separated from employment through reductions in force (RIF) who accept another position in state government.
5. Adds a new section "(f2)" to G.S. 126-7.1 that would require the SHRC to adopt a rule to waive a RIF'd employee's 12-month re-employment priority status if the

employee declines an interview for another position equal to or higher than the one previously held.

6. Adds a new section “(j)” to G.S. 126-7.1 to allow certain state departments and offices to reorganize and restructure positions through a voluntary separation process, in accordance with a policy approved by the SHRC and subject to funding/approval by the Office of State Budget and Management.
7. Amends various sections of G.S. 126-14.2 by eliminating a requirement that state agencies select from a pool of the “*most* qualified persons” for state employment, and instead would require employment of “qualified persons.”
8. Amends G.S. 126-23(a) by removing “Age” from the list of information that must be included in state employee personnel records.
9. Adds a new section “2a” to G.S. 126-24 to allow a potential state or local government supervisor, during the interview process, to have access to a prospective employee’s personnel records, but only with regard to performance management documents.

Other Bills with Action this Week:

[HB 82](#) Execution/Nonsecure Custody Order/Child Abuse (Stevens, Zachary, Glazier, Jordan)

- Ratified
- Presented to the Governor on Wednesday, May 27

[HB 110](#) Cherokee/Rutherford/Clay Boards of Education Election (West)

- Ratified
- Became SL 2015-35 on Tuesday, May 26

[HB 114](#) Equal Tax Treatment of Government Retirees (Cleveland, Iler, Setzer, Whitmire)

- Withdrawn from the House Committee on State Personnel
- Re-referred to the House Committee on Pensions and Retirement, if favorable, Finance

[HB 189](#) Rockingham County School Board (Jones, Holloway)

- House concurred with Senate
- Ratified
- Became SL 2015-38 on Thursday, May 28

[HB 232](#) Study/Update Bicycle Safety Laws (Whitmire, Shepard, Jeter)

- Ratified
- Presented to the Governor on Wednesday, May 27

[HB 237](#) Repeal Personal Education Plans/Modify Transition Plans (Elmore, Holloway, Glazier)

- Ratified
- Presented to the Governor on Wednesday, May 27

[HB 274](#) Retirement Technical Corrections Act of 2015 (Gill, L. Bell, Elmore, Waddell)

- Favorable report from the Senate Committee on Pensions & Retirement and Aging
- Passed the Senate on Thursday, May 28
- Ordered enrolled

[HB 276](#) Agency Participation Procedures Act of 2015 (Ross, Gill, Goodman, McNeill)

- Withdrawn from the Committee on Rules and Operations of the Senate
- Re-referred to the Senate Committee on Pensions & Retirement and Aging

[HB 293](#) Adoption Law Changes (Stevens)

- Ratified
- Presented to the Governor on Wednesday, May 27

[HB 355](#) Evidence Passed Vehicle is a School Bus (Reives, Stam)

- Withdrawn from the Senate Calendar
- Re-referred to the Committee on Rules and Operations of the Senate

[HB 879](#) Juvenile Code Reform (Jordan, Glazier, McGrady, Avila)

- Ratified
- Presented to the Governor on Wednesday, May 27

[SB 211](#) Damages for Late Payment of Monies/Charter (Tillman)

- Withdrawn from the Committee on Rules, Calendar, and Operations of the House
- Re-referred to the House Committee on Education/K-12

[SB 597](#) Repeal References to ABCs (Tillman, Soucek, Curtis)

- Withdrawn from the Committee on Rules, Calendar, and Operations of the House
- Re-referred to the House Committee on Education/K-12

[SB 676](#) Autism Health Insurance Coverage (Apodaca, Krawiec)

- Withdrawn from the Committee on Rules, Calendar, and Operations of the House
- Re-referred to the House Committee on Insurance

Meetings June 1- 4:

Tuesday, June 2

- 11:00 AM House Education – Community Colleges, 643 LOB
 - [SB 112](#) Commercial Fishing Courses/Coastal Colleges

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